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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,086	04/15/2004	Shin Matsuda	81716.0123	7174
26/021 7590 04/11/2008 HOGAN & HARTSON LLP. 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067				
EXAMINER MENON, KRISHNAN S				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
04/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,086

Applicant(s)

MATSUDA ET AL.

Examiner

Krishnan S. Menon

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 1-24 and 30-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :2/7/08, 12/3/07, 8/30/07, 7/13/07, 7/5/07, 8/1/05, 5/20/04.

DETAILED ACTION

Claims 1-39 are pending of which claims 1-24 and 30-39 are withdrawn from consideration as of 3/5/08.

Election/Restrictions

Claims 1-24 and 30-39 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/5/08.

Claim Rejections - 35 USC § 102/103

1. Claims 25,27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Yasuda, et al. (US 6,244,738).

Claim 25 recites a channel with plurality of supply portions connected to the channel and the channel having a vibrating element at or near the where the supply portions are connected. Limitations regarding the flow of the fluids and being subjected to a predetermined treatment are intended use of the device.

Yasuda teaches a channel (20) with supply channels (21) and (22) and an ultrasonic vibrator at (61) - see fig 2. The two supply channels would be 'plurality', meaning 2 or more. There is also a collection portion – outlet (23) of the channel. See also the abstract and claims. Applicant defines the collection portion as outlet (55) in figure 13A, the elected species.

2. Claims 25-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Cosby et al (US 2003/0107946).

Cosby teaches a device (see figure 7) having a channel (116) with a substrate (112) and cover (114), plurality of entry channels (122, 124 – two is plural), with a pumping chamber at the junction of the entry channel and the channel (116), the top cover on the pumping channel having a vibrator (see paragraphs 35 and 36) so that the cover (114) over the chamber (136) vibrates. The reference also teaches a collection portion, that is an outlet, (142), and a serpentine portion (138) for any pre-determined treatment.

3. Claims 26 and 28 are rejected under 35 USC 103(a) as being unpatentable over Yasuda.

Claims differ from the teaching of the reference in having the vibrator on the cover. Reference has the vibrator on the substrate. However, this difference is not patentable because the structure taught by the reference is equivalent, performing the same function in substantially the same way as claimed, and the location/orientation of the vibrator with respect to the channel is of design convenience.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S. Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/
Primary Examiner, Art Unit 1797